

Mr. GRASSLEY addressed the Chair. The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Is the Durbin amendment the first vote?

The PRESIDING OFFICER. Yes.

Mr. REID. Mr. President, under the unanimous consent agreement, Senator DURBIN and whoever wants to close on that side have 2 minutes, correct?

The PRESIDING OFFICER. There is no unanimous consent agreement to that effect.

Mr. REID. Based on what we have done in the past, Senators have been expecting that. I ask unanimous consent that on this amendment and the other, there be 4 minutes evenly divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois is recognized for 2 minutes.

Mr. DODD. Reserving the right to object, does that also apply to the Dodd amendment?

The PRESIDING OFFICER. There was also an agreement on the Dodd amendment.

The Senator from Illinois, Mr. DURBIN, is recognized.

AMENDMENT NO. 2521

Mr. DURBIN. Mr. President, this amendment was enacted by the Senate as part of the bankruptcy bill last year. The bill received a vote of 97-1. It imposes no new legal duties on creditors or lenders but says they must follow the law if they want to take advantage of the law.

We are talking about equity creditors, lenders who prey on people who are disabled, elderly, vulnerable, and less educated. Folks on a fixed income with a home end up with a new mortgage because they wanted siding on their home or a new roof and several months or years later find out they are about to lose the last thing they have on Earth—their home—because of unscrupulous practices by these creditors.

The bottom line is this: If we are going to have rules in this society for borrowers, we should also have rules for creditors. The rules are called the law. If they do not follow the law, they can be thrown out of bankruptcy court if they are a borrower. If they do not follow the law and the Durbin amendment passes, they will be thrown out of the court because they have been guilty of unscrupulous credit practices, taking advantage of the elderly.

All the Senators on the floor who have lamented the scandalous behavior of these creditors in the past have a chance now to vote for an amendment to tell them once and for all that their low-life tactics are unacceptable in America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, we have a truth-in-lending law. It is vigorously enforced with many remedies, including damages in class action lawsuits.

Senator DURBIN's amendment would make bankruptcy courts, which have

no jurisdiction over truth in lending whatsoever, an enforcement mechanism of the truth-in-lending law. This produces an absurd situation. Under truth in lending, the lender has an obligation to make some assessment about the borrower's ability to pay. Under this amendment, everyone who is in default or in bankruptcy will be able to argue that the bank should have known that the lender could not pay the loan back and therefore the mortgage should be forgiven.

The net result is that hard-working, frugal people who save money and pay their debts would end up paying hundreds of millions of dollars, billions of dollars, in additional interest costs to cover people who would file lawsuits claiming, "Well, I went broke and it's the bank's fault, and therefore I shouldn't have to pay my mortgage."

This amendment should be defeated. Giving one court, which has no jurisdiction over the pertinent law, the ability to enforce that law, which rightly belongs in another court, is, I think, a gross violation of logic and the basic structure of the legal system. This is a bad amendment that will produce an even worse situation where honest people who pay their debts will end up paying higher interest rates for people who don't pay their debts.

I move to table the Durbin amendment.

Mr. GRASSLEY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 2521. The yeas and nays have been ordered. The clerk will call the roll.

The legislative assistant called the roll.

Mr. FITZGERALD (when his name was called). Present.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

Mr. REID. I announce that the Senator from South Carolina (Mr. HOLINGS) is absent because of a death in the family.

The result was announced—yeas 51, nays 46, as follows:

[Rollcall Vote No. 358 Leg.]

YEAS—51

Abraham	Enzi	McConnell
Allard	Frist	Murkowski
Ashcroft	Gorton	Nickles
Bennett	Gramm	Roberts
Bond	Grams	Roth
Brownback	Gregg	Santorum
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Campbell	Helms	Smith (NH)
Chafee, L.	Hutchinson	Smith (OR)
Cochran	Hutchison	Snowe
Collins	Inhofe	Stevens
Coverdell	Johnson	Thomas
Craig	Kyl	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Voinovich
Domenici	Mack	Warner

NAYS—46

Akaka	Feingold	Lincoln
Baucus	Feinstein	Mikulski
Bayh	Graham	Moynihan
Biden	Grassley	Murray
Bingaman	Harkin	Reed
Boxer	Inouye	Reid
Breaux	Jeffords	Robb
Bryan	Kennedy	Rockefeller
Byrd	Kerrey	Sarbanes
Cleland	Kerry	Schumer
Conrad	Kohl	Specter
Daschle	Landrieu	Torricelli
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	Wyden
Durbin	Levin	
Edwards	Lieberman	

ANSWERED "PRESENT"—1

Fitzgerald

NOT VOTING—2

Hollings

McCain

The motion was agreed to.

Mr. LOTT. I move to reconsider the vote.

Mr. COVERDELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The majority leader.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR NO. 257

Mr. LOTT. As in executive session, I ask unanimous consent that immediately following the next vote, the Senate proceed to executive session and an immediate vote on Calendar No. 257, the nomination of Linda Morgan to be a member of the Surface Transportation Board. I further ask consent that immediately following the vote, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

Let me confirm, as a result of this vote, there are about five or six other nominations that will be cleared tonight in wrapup.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

BANKRUPTCY REFORM ACT OF 1999—Continued

Mr. LOTT. Mr. President, I ask unanimous consent that the next two votes be 10-minute votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2754

The PRESIDING OFFICER. Under the previous order, there are now 4 minutes equally divided prior to the vote on or in relation to the Dodd amendment No. 2754.

Who yields time?

Mr. KENNEDY. Mr. President, Senator DODD and I have proposed an amendment to address the explosion of credit card debt offered to students on college campuses.

The amendment prohibits a credit card company from giving an individual under the age of 21 a credit card unless the young person has income